

## DEPARTMENT OF STATE REVENUE

04-20211000.ODR

**Final Order Denying Refund: 04-20211000**  
**Sales Tax**  
**For the Tax Year 2021**

**NOTICE:** IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

**HOLDING**

Individual did not establish that he was entitled to the claimed refund.

**ISSUE**

**I. Sales Tax - Refund.**

**Authority:** IC § 6-8.1.9-1; IC § 6-2.5-2-1; IC § 6-2.5-13-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.2d 579 (Ind. 2014); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 28S (July 2020).

Taxpayer protests the denial of a claim for refund of sales tax.

**STATEMENT OF FACTS**

Taxpayer is an Illinois resident. On October 20, 2020, Taxpayer purchased a cargo van from a business in Indiana, hereinafter "Seller." Taxpayer took possession of the van at the Seller's Indiana location and relocated the van to Chicago, Illinois. Taxpayer believes he paid sales tax at the time of the transaction. Taxpayer did not provide further explanation and relied on the documentation he provided in his protest and during the hearing.

In June 2021, Taxpayer requested a refund of sales tax by filing Form GA-110L. The refund amount requested was \$151.26. The Indiana Department of Revenue ("Department") denied the request stating there was no documentation provided with Form GA-110L.

Taxpayer disagreed with the refund denial and submitted a protest to that effect. An administrative phone hearing was held during which Taxpayer explained the basis for the protest. This Final Order Denying Refund results. Further facts will be provided as necessary.

**I. Sales Tax - Refund.**

**DISCUSSION**

The issue is whether Taxpayer has provided documentation and explanation sufficient to support the requested refund after the Department determined Taxpayer was not entitled to a refund. In the denial letter, the Department stated the reason for the refund denial as, "There is [sic] no documents provided by Taxpayer in order to process the GA-110L form."

A taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Taxpayer argues that he is entitled to a refund of sales tax. IC § 6-8.1.9-1(a) affords a taxpayer a statutory right to file a claim for refund. This statute provides, in part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for refund with the department.

Indiana imposes an excise tax called "the state gross retail tax" or "sales tax" on retail transactions made in Indiana. IC § 6-2.5-2-1(a); [45 IAC 2.2-2-1](#). A retail sale is sourced to Indiana and subject to Indiana sales tax

when the transaction is a "retail sale" and the product is received by the purchaser at the business' location in Indiana. IC § 6-2.5-13-1(d)(1). A retail merchant that has a physical presence in Indiana shall collect the tax as an agent for the State. IC § 6-2.5-2-1(b). A licensed Indiana car dealer generally must either collect sales tax or an exemption certificate at the time of the sale of the vehicle. Sales Tax Information Bulletin 28S (July 2020) 20200729 Ind. Reg. 045200398NRA.

In support of his claim for refund, Taxpayer provided copies of Form ST-108NR (Certificate of Gross Retail or Use Tax Paid on the Purchase of a Motor Vehicle, Recreational Vehicle, or Cargo Trailer for a Nonresident) completed by Seller, a Bill of Sale from Seller, two Bills of Sale from the company that conducted the auction at which Taxpayer purchased the vehicle ("Auctioneer"), and bank statements.

Taxpayer requested a refund of \$151.26. The Bill of Sale from Seller shows sales tax paid in the amount of \$1,033.94 - the same amount of sales tax listed on Form ST-108NR.

The first Bill of Sale from Auctioneer shows "Fees & Tax" paid in the amount of \$1,821.25. Sales tax is not listed separately. On the second Bill of Sale from Auctioneer, "fees" are listed as separate amounts for a "Buyer Fee," "Service Fee," "Late Fee," "Internet Fee," "Premium Vehicle Detail Fee," and "Transport & Shipping Fee." The total for the six separately listed fees is \$1,821.25 - the same amount listed on the first Bill of Sale as "Fees & Tax." Sales tax is not one of the six listed amounts.

Bank statements provided by Taxpayer show two withdrawals, the total of which is the purchase price listed on both of the Auctioneer's Bills of Sale. The amount of the withdrawals equals the purchase price of the van plus the fees totaling \$1,821.25.

During the administrative hearing, Taxpayer indicated the van was listed for sale through Auctioneer as an auction. In order to "bid" on the vehicle, Taxpayer needed "credentials" to complete the purchase. Taxpayer used the "credentials" from Seller to complete the transaction. In essence, Seller seems to have served as an "intermediary" for Taxpayer.

Taxpayer also stated during the hearing that he paid sales tax. He explained that the amount of sales tax paid was \$1,033.94, the same amount listed on the Bill of Sale from Seller. Taxpayer did not think the \$1,821.25 listed on the other invoices was the correct amount of sales tax. However, Taxpayer only requested a refund of \$151.26. Taxpayer did not explain how or why he requested a refund of a significantly smaller amount. Taxpayer also provided no further explanation for why he believes he paid sales tax and should be refunded such. Considering the documentation and explanation provided by Taxpayer in the course of the protest process, Taxpayer has not established that he paid Indiana sales tax on the purchase of the van.

In summary, Taxpayer's vehicle sale was an Indiana retail transaction subject to Indiana sales tax. Documents provided by Taxpayer do not establish he paid Indiana sales tax on the purchase of the van. Rather, they show that six fees were paid, but not sales tax. Since no Indiana sales tax was paid, there is nothing to refund even if it were exempt, which it is not. Taxpayer is not entitled to a refund.

### FINDING

Taxpayer's protest is denied.

Dec. 29, 2021

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